

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 4732 of 2011

and W.M.P. No.2 of 2011

1. K.Amirthammal (Deceased)

2.M.Kanniappan

3.K.Ramesh Babu

4.K.Madurai Vinayagam

5.K.Bharani

... Petitioners

Vs

1.The Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildar,
Cheyyur Taluk Office,
Cheyyur, Kancheepuram District.

... Respondents

(P2 to P5 are substituted as legal representatives of deceased sole petitioner as per order dated 07.07.2020 made in WMP. Nos.16226 and 16227 of 2016 in W.P. No.4732 of 2011)

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in passing the impugned order by issuing patta No.984 dated 19.02.2009 by transferring the patta No.395 stood in the petitioner's name to the name Arasadi Pillayar in respect of S.No.203 measuring 1.81 acres, situated at Perunkranai Village, Chitammur Post Cheyyur Taluk, Kanchipuram District and quash the same and direct the second respondent to restore the patta No.395 to the petitioner's name in respect of the above property.

For Petitioners : Mr. N.Nagu Sah

For Respondents : Mr. A.Madhumathi
Special Government Pleader

O R D E R

This petition is filed for the issuance of Writ of Certiorarified Mandamus to quash the impugned order by the second respondent transferring patta in the name of Arasadi Pillayar in respect of S.No.203, situated at Perunkaranai Village, Chitammur Post Cheyyur Taluk, Kanchipuram District and to direct the second respondent to restore patta No.395, to the petitioner's name in respect of the above property.

2. The petitioner namely Tmt. Amirthammal, wife of Kanniyappan, died during pendency of this Writ Petition and petitioners 2 to 5 are substituted as legal heirs of the deceased Amirthammal. It is stated by the petitioner that the property was originally acquired by Thiru. Ellappan Gounder, the father of Amirthammal, by way of a registered sale deed dated 24.05.1957. After the death of said Ellappan Gounder, the property devolved on petitioner and her mother one Subbulakshmi Ammal. After the lifetime of the said Subbulakshmi Ammal it is stated that the petitioner became the absolute owner of the property. Though the patta originally stood in the name of Amirthammal, it is stated that the same was changed in the name of Deity, Arasadi Pillayar. The petitioner therefore approached this Court challenging the patta generated through online by the Deputy Tahsildar, Cheyyur, dated 19.02.2009.

3. The case of the petitioner is that the patta was changed in the name of Arasadi Pillayar without issuing any notice or giving opportunity to the petitioners 2 to 5 or their mother. The main issue relates to transfer of patta. It is admitted that Tmt. Amirthammal filed a suit earlier in O.S. No.45 of 2000 before the District Munsif Court, Madurantakkam and the said suit was dismissed by a judgment and decree dated 29.11.2007. As against the judgment and decree of the lower Court, the said Amirthammal filed an appeal in A.S. No.14 of 2008 on the file of Sub Court, Madhuranthakam. The appeal in A.S. No.14 of 2008 was also dismissed by a judgment and decree dated 18.11.2009. Challenging the judgment and decree of the learned Sub-ordinate Judge, Madurantakkam, the deceased petitioner has filed a Second Appeal in S.A. No.879 of 2010 before this Court. It is stated that the said Second Appeal is pending. After the filing of Second Appeal, challenging the judgment and decree of the lower Court, the above Writ Petition is filed by the petitioners challenging transfer of patta.

4. The petitioners have produced before this Court only the patta in favour of Subbulakshmi Ammal. No document showing prior title or revenue records is produced before this Court. Assuming that the Tahsildar has passed an erroneous order and the name of some third party is included in the patta, the suit was decided

against the petitioners holding that the deceased petitioner or her mother had no title to the property as against the defendants in the suit who represented the temple and set up title in favour of the temple. Having regard to the Civil Court's decree rejecting the claim of petitioner, this Court is unable to find any error or irregularity in the patta granted in favour of the temple in preference to the petitioner. Section 14 of the Tamil Nadu Patta Pass Book Act clearly enables a person to seek modification of entries in revenue records in accordance with the declaration of the Civil Court regarding one's title. Since the petitioner's title has been negatived by the Civil Court, the petitioner cannot seek transfer of patta in favour of the petitioner. However, it is open to the petitioner to seek modification of revenue records or for grant of patta in favour of the petitioners in case the petitioners succeed in Second Appeal now pending before this Court in S.A. No. 879 of 2010.

5. With the liberty indicated above, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Tahsildar,
Cheyyur Taluk Office,
Cheyyur, Kancheepuram District.

PCH(CO)
RMP(01/04/2021)

W.P. No. 4732 of 2011